

AHG:jml

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CANAL INSURANCE COMPANY,

Plaintiff,

-against-

GINNETTI TRUCKING, LLC, a Connecticut Limited Liability Corporation, BRUCE LAURITZEN, individually, EDDYS N. GARCIA, as Administrator of the Goods, Chattels and Credits which were of WENDY SANTOS, deceased, EDDYS N. GARCIA, individually, EDDY I. GARCIA, an infant by his father and natural guardian, EDDYS N. GARCIA, KENNY J. GARCIA, an infant by his father and natural guardian, EDDYS N. GARCIA, OLGA GARCIA, individually, RAFAEL SALVADOR, individually, KEYLIE SALVADOR, an infant by her mother and natural guardian, OLGA GARCIA, ANGEL RIVERA, individually, EDART LEASING COMPANY, LLC, A Massachusetts Limited Liability Corporation and DASILVA TAUNTON EXPRESS, a Massachusetts business entity, form unknown.

VERIFIED ANSWER TO
COMPLAINT FOR
DECLARATORY RELIEF
AND INTERPLEADER

Docket No.: 08-CV-1588

Defendants.

-----X

Defendant EDDYS N. GARCIA, as Administrator of the Goods, Chattels and Credits which were of WENDY SANTOS, deceased, EDDYS N. GARCIA, individually, EDDY I. GARCIA, an infant by his father and natural guardian, EDDYS N. GARCIA, KENNY J. GARCIA, an infant by his father and natural guardian, EDDYS N. GARCIA, by their attorneys, Gair, Gair, Conason, Steigman & Mackauf, answering the Complaint For Declaratory Relief and Interpleader by CANAL INSURANCE COMPANY respectfully states as follows:

INTRODUCTION

1. Denies any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "11", "12" and "13".

FACTS

2. Denies the allegations contained in paragraph "19" except admits that the two left side tandem tires on the rear axle of the 1978 tanker-trailer became dislodged from the rear axle as a result of which such tandem tires crossed the center median and impacted a 1994 Mercury Villager owned and operated by defendant, EDDYS N. GARCIA, and in which WENDY SANTOS, deceased and defendants, EDDY I. GARCIA, an infant by his father and natural guardian, EDDYS N. GARCIA, KENNY J. GARCIA, an infant by his father and natural guardian, EDDYS N. GARCIA, were traveling as passengers and that said impact caused WENDY SANTOS to sustain fatal injuries and caused defendants EDDY I. GARCIA, KENNY J. GARCIA to sustain serious bodily injuries.

3. Denies any knowledge or information as to the allegations contained in paragraph "20" as to whether ANGEL RIVERA sustained serious bodily injuries.

4. Denies the allegations contained in paragraph "21" except admits that EDDYS N. GARCIA, both individually and as personal representative of the Estate of WENDY SANTOS, deceased and as guardian for minor defendants EDDY I. GARCIA and KENNY J. GARCIA brought a civil action in the Supreme Court, State of New York, County of Bronx which was removed to the U.S. District Court for the Southern District of New York.

5. Denies the allegations contained in paragraph "26" of the Complaint to the extent that it is alleged that plaintiffs' counsel continues to assert that the maximum limit CANAL is required to afford GINNETTI is FIVE MILLION AND 00/100 (\$5,000,000.00) DOLLARS.

Dated: New York, New York
March 17, 2008

Respectfully submitted,

GAIR, GAIR, CONASON,
STEIGMAN & MACKAUF

ANTHONY H. GAIR (AHG5408)
Attorneys for Defendants
EDDYS N. GARCIA, as Administrator of
the Goods, Chattels and Credits which
were of WENDY SANTOS, deceased,
EDDYS N. GARCIA, individually, EDDY
I. GARCIA, an infant by his father and
natural guardian, EDDYS N. GARCIA,
KENNY J. GARCIA, an infant by his
father and natural guardian, EDDYS N.
GARCIA
80 Pine Street
New York, NY 10005
(212) 943-1090

TO:

McELFISH LAW FIRM
Attorneys for Plaintiff
CANAL INSURANCE COMPANY
1112 N. Sherbourne Drive
West Hollywood, CA 90069

LESTER, SCHWAB, KATZ & DWYER
Attorneys for Defendant
GINNETTI TRUCKING, LLC
120 Broadway
New York, NY 10271

YANOVER & YANOVER
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BRUCE LAURITZEN
1011 Durham Road
Madison, CT 06443

EDART LEASING COMPANY, LLC
100 Wales Avenue
Avon, MA 02322

DASILVA TAUNTON EXPRESS
513 John Hancock Road
Taunton, MA 02780

STATE OF NEW YORK)
 : s.s.:
COUNTY OF NEW YORK)

ANTHONY H. GAIR, the undersigned, an attorney admitted to practice in the Courts of New York State, states that he is a member of the firm of Gair, Gair, Conason, Steigman & Mackauf attorneys for defendants, EDDYS N. GARCIA, as Administrator of the Goods, Chattels and Credits which were of WENDY SANTOS, deceased, EDDYS N. GARCIA, individually, EDDY I. GARCIA, an infant by his father and natural guardian, EDDYS N. GARCIA, KENNY J. GARCIA, an infant by his father and natural guardian, EDDYS N. GARCIA, in the within action; that deponent has read the foregoing Answer and knows its contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes them to be true. Deponent further states that the reason this verification is made by your deponent and not by the plaintiff is that the plaintiff is not within the county where deponent maintains his office.

The grounds of deponent's belief as to all matters not stated upon deponent's own knowledge are consultations had with the plaintiff and investigation and data in deponent's possession.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

Dated: New York, New York
March 17, 2008

ANTHONY H. GAIR

STATE OF NEW YORK, COUNTY OF NEW YORK ss:

Jacqueline Lester being sworn says: I am not a party to the action, am over 18 years of age and reside at Staten Island, New York.

On March 17, 2008 I served a true copy of the annexed VERIFIED ANSWER TO COMPLAINT FOR DECLARATORY RELIEF AND INTERPLEADER by mailing the same in a sealed envelope, with postage prepaid thereon, in an official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

McELFISH LAW FIRM
Attorneys for Plaintiff
CANAL INSURANCE COMPANY
1112 N. Sherbourne Drive
West Hollywood, CA 90069

LESTER, SCHWAB, KATZ & DWYER
Attorneys for Defendant
GINNETTI TRUCKING, LLC
120 Broadway
New York, NY 10271

YANOVER & YANOVER
Attorneys for Co-Plaintiffs
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BRUCE LAURITZEN
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Madison, CT 06443

EDART LEASING COMPANY, LLC
100 Wales Avenue
Avon, MA 02322

DASILVA TAUNTON EXPRESS
513 John Hancock Road
Taunton, MA 02780

Jacqueline Lester

Sworn to before me the
17th day of March, 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CANAL INSURANCE COMPANY,

Plaintiff,

-against-

GINNETTI TRUCKING, LLC, a Connecticut
Limited Liability Corporation, BRUCE
LAURITZEN, individually, EDDYS N. GARCIA,
as Administrator of the Goods, Chattels and Credits
which were of WENDY SANTOS, deceased,
EDDYS N. GARCIA, individually, EDDY I. GARCIA,
an infant by his father and natural guardian,
EDDYS N. GARCIA, KENNY J. GARCIA, an
infant by his father and natural guardian,
EDDYS N. GARCIA, et. al.,

Docket No.: 08-CV-1588

Defendants.

-----X

VERIFIED ANSWER TO
COMPLAINT FOR DECLARATORY
RELIEF AND INTERPLEADER

-----X

GAIR, GAIR, CONASON,
STEIGMAN & MACKAUF
Attorneys for Plaintiff
80 Pine Street
New York, New York 10005
(212) 943-1090
Fax (212) 425-7513

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NOTICE OF ENTRY

SIR : Please take notice that the within is a (certified) true copy of an Order duly
entered in the office of the Clerk of the within named Court on , 2008.

Dated: New York, New York

NOTICE OF SETTLEMENT

SIR : Please take notice that an Order of which the within is a true copy will be
presented for settlement to the Hon. one of the Justices of the within named Court,
at County on the day of , 2008 at 9:30 A.M.

Dated: New York, New York